Mayor Lioneld Jordan

City Attorney Kit Williams

City Clerk Sondra Smith

Fayetteville
ARKANSAS

Aldermen

Ward 1 Position 1 – Adella Gray
Ward 1 Position 2 – Sarah Marsh
Ward 2 Position 1 – Mark Kinion
Ward 2 Position 2 – Matthew Petty
Ward 3 Position 1 – Justin Tennant
Ward 3 Position 2 – Martin W. Schoppmeyer, Jr.
Ward 4 Position 1 – Rhonda Adams
Ward 4 Position 2 – Alan T. Long

City of Fayetteville Arkansas
City Council Meeting Minutes
March 05, 2013

A meeting of the Fayetteville City Council was held on March 05, 2013 at 6:00 p.m. in Room 219 of the City Administration Building located at 113 West Mountain Street, Fayetteville,

Mayor Jordan called the meeting to order.

PRESENT: Alderman Adella Gray, Sarah Marsh, Mark Kinion, Matthew Petty, Justin Tennant, Martin Schoppmeyer, Alan Long, Mayor Lioneld Jordan, City Attorney Kit Williams, City Clerk Treasurer Sondra Smith, Staff, Press, and Audience.

ABSENT: Alderman Rhonda Adams

Pledge of Allegiance

Mayor's Announcements, Proclamations and Recognitions: N/A

City Council Meeting Presentations, Reports and Discussion Items: N/A

Agenda Additions: None

<u>Consent:</u>

Approval of the February 19, 2013 City Council meeting minutes.

Approved

2013 Overlay/Sidewalk Projects: A resolution approving the Transportation Division Overlay/Sidewalk Projects list for 2013.

Resolution 37-13 as recorded in the office of the City Clerk.

Transportation Bond Trail Improvements: A resolution approving a budget adjustment in the total amount of $4,296.00 recognizing unappropriated bond monies for trail improvements.

Resolution 38-13 as recorded in the office of the City Clerk.

Ozarks Electric Cooperative Corporation Easement: A resolution authorizing the transfer of an easement interest to Ozarks Electric Cooperative Corporation on certain city-owned property near the Noland Wastewater Treatment Facility to provide for a relocation of electrical utility service.

Resolution 39-13 as recorded in the office of the City Clerk.

Bid #13-16 Scurlock Industries: A resolution awarding Bid #13-16 and authorizing the purchase of precast box culvert sections from Scurlock Industries of Fayetteville in the total amount of $71,404.71 for the construction of a trail tunnel for the TSA LA GI Trail, and approving a five percent (5%) project contingency.

Resolution 40-13 as recorded in the office of the City Clerk.

Mahler Property Donation: A resolution authorizing acceptance of a donation of 1.21 acres of property from Lori and Alex Mahler near Cato Springs Road to be utilized for the future Cato Springs Trail Trailhead.

Resolution 41-13 as recorded in the office of the City Clerk.

Garland Avenue Widening and Improvement Project: A resolution approving a settlement agreement with Glen David Wilson, Trustee, Timothy Hinkle, Trustee, and Linda Hinkle regarding condemnation litigation filed as part of the N. Garland Avenue Widening and Improvement Project.

Resolution 42-13 as recorded in the office of the City Clerk.

Alderman Tennant moved to approve the Consent Agenda as read. Alderman Kinion seconded the motion. Upon roll call the motion passed 7-0. Alderman Adams was absent.

Unfinished Business:

McClelland Consulting Engineers: A resolution approving a professional engineering design services agreement with McClelland Consulting Engineers in the amount of $279,045.55 for the rehabilitation of the historic Maple Street and Lafayette Street bridges, and approving a budget adjustment recognizing federal grant revenue in the amount of $223,257.00. ***This resolution was tabled at the February 19, 2013 City Council meeting to the March 5, 2013 City Council meeting.***

Chris Brown, City Engineer stated they met with the member of the public that had the concerns and came up with a revised contract. You have the revised contract that shows the changes that we made as part of our discussion. We recommend approval of the revised contract with the additional change requested by the Arkansas State Highway Department.

Paula Marinoni thanked everybody for listening to her concerns. She reviewed the contract and the changes that were made.

Mayor Jordan thanked Ms. Marinoni.

Alderman Gray thanked Ms. Marinoni for her work on the contract.

Alderman Gray moved to approve the resolution. Alderman Petty seconded the motion. Upon roll call the resolution passed 7-0. Alderman Adams was absent.

Resolution 43-13 as recorded in the office of the City Clerk.

New Business:

Senate Bill 101 Opposition: A resolution to express the City Council's opposition to Senate Bill 101, The Video Services Act, and to request our Senators and Representatives and all Arkansas Legislators to reject this unfair and unneeded bill.

Lindsley Smith: Communication Director gave a brief description of Senate Bill 101.

Alderman Petty: Do you think we should add a section to request the Governor to veto the Bill?

City Attorney Kit Williams: I would say no. It passed very strongly and the Governor's veto can be overridden by a simple majority.

Lindsley Smith, I think that is a wise opinion based on what we have seen this session.

Alderman Petty: This is a taking of the citizen's rights to manage their own space. We manage our streets and right of ways in trust for our citizens who chose us to do that for them. This is a taking of the citizen's rights and turning it over to corporations.

Mayor Jordan: We certainly have come out against it.

Alderman Long: I appreciate Administration keeping an eye on this. I contacted my representatives and people in Little Rock because this is a bad bill. This is bad for the people of Arkansas and it is bad for people who live in municipalities. I am very disappointed in Arkansas Legislators for passing this.

Alderman Petty: With the passage of this we can probably expect that our franchise revenue will be disappearing.

City Attorney Kit Williams: It will not happen for the first couple of years I do not think.

Alderman Petty moved to approve the resolution. Alderman Gray seconded the motion. Upon roll call the resolution passed 7-0. Alderman Adams was absent.

Resolution 44-13 as recorded in the office of the City Clerk.

Senate Bill 367 Opposition: A resolution to oppose Senate Bill 367's endangering all of Fayetteville's development regulations.

City Attorney Kit Williams: This would endanger all of our developmental regulations because if they are applied to a property being developed and the landowner says that is reducing my value by 10% then the taxpayers have to pay. Pre-existing development regulations would be affected by this Bill the way I read it. This same Bill came forward in 1995, and it never made it out of committee. I think this is a very dangerous and serious Bill.

Mayor Jordan: What we have at risk is your Streamside Protection, city fire code, landscape regulations, our sidewalk program and street programs.

City Attorney Kit Williams: It is not needed. We have specific provisions in our Unified Development Code that if a developer thinks that we are taking more than what is constitutionally allowed they can appeal to the Planning Commission and get it reduced. In the last dozen years we have never had a land developer challenge the city in court saying you are taking too much property. We are careful not to do that. This would spark a tremendous amount of litigation.

Jeremy Pate, City Planner: I agree this does not bode well for Fayetteville. This Bill diminishes the ability for local elected officials to effectively govern citizens. It is a quality of life issue. Our development regulations are for the health, safety, and welfare of our citizens. We are concerned about this legislation. On a development or rezoning application not everyone goes away happy on every issue but you make the best decision that is fair and balanced and try to achieve what the vision of the city is. I feel this Bill strips away the ability for the city to do that.

Don Marr, Chief of Staff: This goes way beyond your voting in opposition for a Bill. It has such a significant impact on Fayetteville and its development code and its protection of residents that we hope, if this passes, you will contact your representatives. I think it is important that these people are held accountable for their votes. Elections have consequences. I think it is important that citizens get involved when they see things impact the things we value in our city.

Alderman Petty: The affect of this Bill would be to strip away every good thing Fayetteville has done for land use in the last decade.

Alderman Petty moved to approve the resolution. Alderman Marsh seconded the motion. Upon roll call the resolution passed 7-0. Alderman Adams was absent.

Resolution 45-13 as recorded in the office of the City Clerk

Avfuel Corporation Contract: An ordinance waiving the requirements of formal competitive bidding and approving a contract with Avfuel Corporation to provide interim aviation fuel and refueler trucks to the Fayetteville Executive Airport for a period not to exceed ninety (90) days, pending a permanent competitively solicited and awarded contract.

City Attorney Kit Williams read the ordinance.

Ray Boudreaux, Airport Director: This is an interim agreement that we may or may not enact until we can bid a permanent contract of the sale of fuel.

Alderman Gray moved to suspend the rules and go to the second reading. Alderman Long seconded the motion. Upon roll call the motion passed 6-0. Alderman Petty was absent during the vote. Alderman Adams was absent.

City Attorney Kit Williams read the ordinance.

Alderman Long moved to suspend the rules and go to the third and final reading. Alderman Tennant seconded the motion. Upon roll call the motion passed 6-0. Alderman Petty was absent during the vote. Alderman Adams was absent.

City Attorney Kit Williams read the ordinance.

Mayor Jordan asked shall the ordinance pass. Upon roll call the ordinance passed 6-0. Alderman Petty was absent during the vote. Alderman Adams was absent.

Ordinance 5566 as Recorded in the office of the City Clerk.

Kum & Go Land Sale Proceeds: A resolution stating the intent of the City Council of the City of Fayetteville to use the majority of the proceeds from the land sale to Kum & Go, LC for improvements to the remaining city-owned property and adjacent neighborhoods.

Alderman Petty: We have heard from some that there may be better uses for the money. We will entertain any amendment that preserves the intent of the resolution. I think it is important that we make a statement about the recycling of the materials. I think it is important that we set the wheels in motion to create a plan for the property.

Alderman Marsh: This is a really important site. It is a high traffic area around the box that surrounds our city. It is the gateway to our commerce district and a good potential connection point for the trail that will eventually run along the west fork of the White River. It is also adjacent to Happy Hollow School. This area is a food desert and has many residents that are economically challenged. We are requesting city staff too develop a master plan for the site that is consistent with our 2030 City Plan. We are asking to look for opportunities to recycle, salvage and repurpose pieces of the old factory building.

City Attorney Kit Williams: City staff is looking at selling the above ground portion of this. We have a very tight demolition schedule. We will have to ask Kum and Go if they are willing to push back the demolition date, if they are not we have to comply with the contract as is. If we take out the easy salvageable material then other companies may not want to bid on the removal of the site.

David Jurgens, Utilities Director: We believe the Gov Deals is a doable function. If we do not get the Kum and Go time extension we would try to do the Gov Deals on a reduced timeline but I have concerns that would fail.

City Attorney Kit Williams: Kum and Go might be able to adjust the time table. One advantage of the Gov Deal is this will reduce their cost. If they do not grant us an extension with the time frame then we have to get it demolished because that is what our contract says.

Alderman Petty: Do you see the potential for this holding up the process as being significant?

David Jurgens: The only way a contractor can remove this material is if he is going to receive revenue from what is there.

Alderman Petty: Do you think this resolution is likely to impact the timeline?

David Jurgens: If we had to slow the timeline down to do an evaluation I think it could. If we simply allow the process that we have underway to set the timeline and consider that as meeting the spirit of the resolution then it would not slow it down. If we require more from the contractors or subtract items that are available for salvage from the contractors those could slow down the timeline.

Mayor Jordan: The number one thing I wanted to do in this process is to get the building down because it is unsafe and is what I would consider blight. We are going to recycle materials. I would like to put a lot of the proceeds back into economic development. We want to make that land reusable.

Alderman Gray: I can not support this because I feel it is premature. To tie up the revenue that we will be receiving is premature.

Alderman Tennant: I agree with what Adella just said. Tying up a percentage of this money without being able to predict the future is difficult for me to do. There is a lot we can do for this neighborhood later.

Alderman Long: I think tying up the money is premature. The area did receive a new fire station and intersection and those are important things that go into the quality of life in that area. I think I could support this resolution if we amended it to remove section one.

Aubrey Shepherd: It is not good for a community garden site. I think there is no reason not to remove the amendment.

Candice Hoggatt, Ward 4: I have a problem with ear marking funds. I support the amendment.

Alderman Long moved to amend the resolution to remove Section 1. Alderman Petty seconded the motion. Upon roll call the motion passed 7-0. Alderman Adams was absent.

David Jurgens: The word ensure in section five is beyond our ability for us to ensure.

Don Marr: Maybe the word should be strive to meet that requirement.

Alderman Petty: Doesn't current law in Fayetteville require us to document the end source of our recyclables and to account for that?

Don Marr: We have a current resolution on our curbside recycling program to do so.

Alderman Petty: Why is this any different? Why would we not require that accountability for construction and demolition waste?

Don Marr: I think the issue is what markets would we sell it to and have we identified those markets. We have very clear markets on our curbside recycling. Our goal all along has been to reuse as much of this as possible.

Alderman Petty: This is merely a request, a goal. Setting goals that are high is important sometimes. If we do not meet it then we will know why but it does not get anybody in trouble if we don't.

Alderman Marsh: Section five is based LEED new construction credit. How you quantify this is by weight or by volume. I do not anticipate we will have any difficulty meeting the 75% recycling goal.

Mayor Jordan: If we leave it in what if we can't meet that?

Alderman Petty: Then we would know much more than when we started. I think everyone trusts you and the staff to make a good faith effort.

Alderman Long moved to approve the resolution as amended. Alderman Petty seconded the motion. Upon roll call the resolution passed 7-0. Alderman Adams was absent.

Resolution 46-13 as recorded in the office of the City Clerk

Planning Commission Compensation: A resolution to request the Administration to resume paying monthly compensation to the Fayetteville Planning Commissioners.

Alderman Long moved to amend the resolution to state $375.00 per month. Alderman Petty seconded the motion. Upon roll call the resolution passed 7-0. Alderman Adams was absent.

Alderman Long: In 2009 it looked like this would be short term. The Planning Commission puts in a lot of work. I think by compensating them it will motivate and encourage professionals to apply for this job.

Alderman Gray: I am glad Alderman Long brought this forward. Thank you and I support it.

Alderman Petty thanked Alderman Long for bringing this forward.

Alderman Tennant thanked Alderman Long for bringing this forward. These are not city employees but in my mind extension of city employees. I believe this is something we should do.

Alderman Tennant moved to approve the resolution as amended. Alderman Marsh seconded the motion. Upon roll call the resolution passed 7-0. Alderman Adams was absent.

Resolution 47-13 as recorded in the office of the City Clerk

VAC 13-4298 (1253 W. Showroom Dr./Fiat of Fayetteville): An ordinance approving VAC 13-4298 submitted by Crafton Tull and Associates for property located at 1253 West Showroom Drive to vacate an utility easement, a total of 0.08 acres.

City Attorney Kit Williams read the ordinance.

Jeremy Pate gave a brief description of the vacation.

Alderman Gray moved to suspend the rules and go to the second reading. Alderman Long seconded the motion. Upon roll call the motion passed 7-0. Alderman Adams was absent.

City Attorney Kit Williams read the ordinance.

Alderman Gray moved to suspend the rules and go to the third and final reading. Alderman Kinion seconded the motion. Upon roll call the motion passed 7-0. Alderman Adams was absent.

City Attorney Kit Williams read the ordinance.

Mayor Jordan asked shall the ordinance pass. Upon roll call the ordinance passed 7-0. Alderman Adams was absent.

Ordinance 5567 as Recorded in the office of the City Clerk.

Illinois River Watershed Partnership: An ordinance waiving the requirement for bids by applying §34.23(F) Purchases and Contracts Not in Excess of $20,000.00 of the Fayetteville Code of Ordinances and approving a contract with the Illinois River Watershed Partnership in the amount of $10,000.00 for watershed education and planning services.

City Attorney Kit Williams read the ordinance.

Sarah Wrede gave a brief description of the ordinance.

Alderman Kinion moved to suspend the rules and go to the second reading. Alderman Marsh seconded the motion. Upon roll call the motion passed 7-0. Alderman Adams was absent.

City Attorney Kit Williams read the ordinance.

Alderman Tennant moved to suspend the rules and go to the third and final reading. Alderman Long seconded the motion. Upon roll call the motion passed 7-0. Alderman Adams was absent.

City Attorney Kit Williams read the ordinance.

Mayor Jordan asked shall the ordinance pass. Upon roll call the ordinance passed 7-0. Alderman Adams was absent.

Ordinance 5568 as Recorded in the office of the City Clerk.

Regional Urban Stormwater Education Program: An ordinance waiving the requirements of formal competitive bidding and approving a Memorandum of Understanding with the MS4 Jurisdictions and the Northwest Arkansas Regional Planning Commission in the amount of $42,240.78 for the Regional Urban Stormwater Education Program to be provided by the University of Arkansas Cooperative Extension Service to satisfy portions of the NPDES Phase II Stormwater Permit requirements.

City Attorney Kit Williams read the ordinance.

City Attorney Kit Williams*:* This is fulfilling our Federal requirements. We have to do this.

Sarah Wrede: We meet monthly with the extension agents and they report their activities. We have to do this.

Alderman Kinion moved to suspend the rules and go to the second reading. Alderman Gray seconded the motion. Upon roll call the motion passed 7-0. Alderman Adams was absent.

City Attorney Kit Williams read the ordinance.

Alderman Gray moved to suspend the rules and go to the third and final reading. Alderman Tennant seconded the motion. Upon roll call the motion passed 7-0. Alderman Adams was absent.

City Attorney Kit Williams read the ordinance.

Mayor Jordan asked shall the ordinance pass. Upon roll call the ordinance passed 7-0. Alderman Adams was absent.

Ordinance 5569 as Recorded in the office of the City Clerk.

Amend Chapter 166 Development: An ordinance amending subsection 166.04(l)(ii)(f) of Chapter 166 Development of the Unified Development Code to change the dedication ratios related to Parkland Dedications.

City Attorney Kit Williams read the ordinance.

Connie Edmonston, Parks and Recreation Director gave a brief description of the ordinance change.

Alderman Kinion moved to suspend the rules and go to the second reading. Alderman Long seconded the motion. Upon roll call the motion passed 6-0. Alderman Petty was absent during the vote. Alderman Adams was absent.

City Attorney Kit Williams read the ordinance.

Alderman Kinion moved to suspend the rules and go to the third and final reading. Alderman Tennant seconded the motion. Upon roll call the motion passed 7-0. Alderman Adams was absent.

City Attorney Kit Williams read the ordinance.

Mayor Jordan asked shall the ordinance pass. Upon roll call the ordinance passed 7-0. Alderman Adams was absent.

Ordinance 5570 as Recorded in the office of the City Clerk.

Wedington Corridor Neighborhood Master Plan: A resolution to adopt the Wedington Corridor Neighborhood Master Plan vision document and illustrative master plan.

Alderman Long moved to table the resolution to the March 19, 2013 City Council meeting. Alderman Marsh seconded the motion. Upon roll call the motion passed 7-0. Alderman Adams was absent.

This resolution was Tabled to March 19, 2013.

Employee Compensation Adjustment for 2013: A resolution approving a budget adjustment in the amount of $1,330,000.00 to facilitate city-wide employee compensation adjustments for 2013, and approving Police and Fire Pay Plan Grids.

Paul Becker, Finance Director: When you approved the 2013 budget the Mayor indicated he would come back with a compensation plan depending on the revenue outlook and how we closed 2012. We had a surplus of about $1.2 million. We have a reserve level in the General Fund of about $13.6 million. We need roughly $5.7 million to keep a 60 day reserve. Based on this the Mayor is bringing forward the compensation plan. This compensation plan incorporates the salary survey. We are requesting a 4% amount for the employees. The impact would be about $1.4 million on the General Fund.

Don Marr gave a brief summary of the changes to the pay plan that was handed out. He also explained the pay plan changes.

Alderman Tennant: When would this go into effect if it passes and when can it be revisited?

Paul Becker: This would be on the employees first pay check in April. I believe the Mayor's plan is to continue as we have and revisit this yearly at the end of the first quarter.

Alderman Petty: I am proud to support this. I think it is about time. The market study proves that because of the hard choices we have had to make they have fallen behind. I am very happy and would like to thank Paul Becker. We have the capacity to do this. When the economy is going well we should be able to take care of our people. I am grateful that we are in this position. I want to thank the Mayor for bringing this forward.

Aubrey Shepherd: I am happy that it is possible to raise the employees' salaries.

Jeremy Ashley, President of Fayetteville Firefighters Association thanked the Mayor and staff for their time and commitment that was put into this. We have always enjoyed a good relationship and had strong support from the Mayor and city staff and I appreciate it. We also appreciate the support from the City Council.

Citizen: I know you say that things are growing but I am not so sure they are growing in the people that are paying the taxes.

Jamie Thornton: I am not a city employee and do not have relatives on the police or fire department. I pay the HMR tax every month to the City of Fayetteville. I am 100% behind this bill. If anyone needs to be paid market share in the City of Fayetteville it should definitely be our firefighters and police officers because they do such a great job.

Alderman Gray: This is a very exciting day for me. I have wanted this every single year. I am very happy we can see our way clear to do this. Thank you Paul and the Mayor for pushing this and bringing it along. We all know that our personnel are our strongest asset so we need to take care of them.

Alderman Tennant: The city is in the position that we are now because of the staff and what they have done over the years. We run this city the right way, we have done the right things and we have asked for sacrifices and they have been done and done willingly. This is the correction of that. We have an administration and staff that when they say they are going to do something they actually do it. This is definitely something we need to do.

Alderman Marsh: As a new Council member I have been so impressed by the professionalism of the city staff and amazed at the amount they are able to accomplish on a very modest budget. I know what it is like to be under paid. Under paying our employees is bad for morale and it leads to increased turnover. One of the most important investments we can make is in our city staff. I want our city to be able to attract the best and brightest so we continue to be a great place to live. I am a strong supporter of this.

Alderman Long: Thank you Mayor for bringing this forward. I support this plan because I think it is the right thing to do. I think we need to be competitive. We need to take care of our number one asset first and that is our people.

Don Marr: In 2009 the city staff cut $1.8 million from the budget. Much of that was from head count reduction. To move to this pay grid and do this change is probably more than a one year growth in our budget. I want to remind the citizens that the staff saved $1.3 million in 2012 in unspent approved expenditures in our budget, this request is $1 million, and so while we are using reserves, we deposited a surplus of $1.3 million into the reserves of unused expenditures that were approved last year. Talk about pay for performance. I think performing in the savings that we have done and demonstrating fiduciary responsibility is a success story. I also want to thank you. I want to thank the employees and everyone. We have an incredible leader in our Mayor and his passion for employees and treating them well and having them well paid. We want to thank him as well.

Mayor Jordan: When I came into this office in 2009 the economy was tanking, we had a budget we could not meet, an ice storm and I did not know exactly what to do. I knew when I saw the study we were going to fix it. I have been fortunate to have a wonderful staff and great Council to work with. I have been truly blessed as a Mayor to have that. This is the time to do it.

Alderman Petty moved to approve the resolution. Alderman Marsh seconded the motion. Upon roll call the resolution passed 7-0. Alderman Adams was absent.

Resolution 48-13 as recorded in the office of the City Clerk

Announcements:

City Council Agenda Session Presentations:

Tyson Building Demolition Plan Discussion – David Jurgens and Paul Becker

City Council Tours:

April 8, 2013 5:00 PM
Westside Wastewater Treatment Plant

May 6, 2013 5:00 PM
Noland Wastewater Treatment Plant and Biosolids Management Site

Adjournment: 8:10 p.m.

Lioneld Jordan, Mayor

Sondra E. Smith, City Clerk/Treasurer